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DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. RM14-2-002]

Coordination of the Scheduling Processes of Interstate Natural Gas Pipelines and Public Utilities

Before Commissioners: Norman C. Bay, Chairman;

Philip D. Moeller, Cheryl A. LaFleur,

Tony Clark, and Colette D. Honorable.

ORDER ON REQUEST FOR CLARIFICATION AND NOTICE OF COMMENT

PROCEDURES

1. Order No. 809 revised the Commission's regulations relating to the scheduling of transportation service on interstate natural gas pipelines to better coordinate the scheduling practices of the wholesale natural gas and electric industries, as well as to provide additional scheduling flexibility to all shippers on interstate natural gas pipelines.<sup>1</sup> Among other things, Order No. 809 expanded the number of intraday nomination cycles from the current two to three and incorporated by reference into the Commission's regulations certain modified standards developed and filed by the North

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<sup>1</sup> *Coordination of the Scheduling Processes of Interstate Natural Gas Pipelines and Public Utilities*, Order No. 809, 80 Fed. Reg. 23197 (Apr. 24, 2015), FERC Stats. & Regs. ¶ 31,368 (cross-referenced at 151 FERC ¶ 61,049 (2015)).

American Energy Standards Board (NAESB) that revised the standard nomination timeline for interstate natural gas pipelines. Order No. 809 established an implementation date of April 1, 2016. On May 28, 2015 the American Gas Association, the American Public Gas Association, and the Interstate Natural Gas Association of America (collectively, Associations) filed a request for the Commission to clarify the manner in which all pipelines should implement the standards on April 1, 2016, and a request for clarification relating to interpretations of recall rights under existing capacity release contracts in light of the transition from two to three intraday nomination cycles. As discussed below, we grant the request with respect to the manner in which the pipelines should implement the standards and request comment on their default proposal regarding transitioning capacity release contracts.

## **I. Background**

2. On April 16, 2015, the Commission issued Order No. 809, which revised the Commission's regulations relating to the scheduling of transportation service on interstate natural gas pipelines to better coordinate the scheduling practices of the wholesale natural gas and electric industries, as well as to provide additional scheduling flexibility to all shippers on interstate natural gas pipelines. Among other things, the Commission revised its regulations to incorporate by reference the modified NAESB Wholesale Gas Quadrant (WGQ) Business Practice Standards, which revised the standard nomination timeline for interstate natural gas pipelines. The current and revised nomination timelines are as follows:

All times Central Clock Time (CCT)		Current NAESB Standards	Revised NAESB Standards
Timely	Nomination Deadline	11:30 AM	1:00 PM
	Confirmations		4:30 PM
	Schedule Issued	4:30 PM	5:00 PM
	Start of Gas Flow	9:00 AM	9:00 AM
Evening	Nomination Deadline	6:00 PM	6:00 PM
	Confirmations	9:00 PM	8:30 PM
	Schedule Issued	10:00 PM	9:00 PM
	Start of Gas Flow	9:00 AM	9:00 AM
Intraday 1	Nomination Deadline	10:00 AM	10:00 AM
	Confirmations	1:00 PM	12:30 PM
	Schedule Issued	2:00 PM	1:00 PM
	Start of Gas Flow	5:00 PM	2:00 PM
	IT Bump Rights	bumpable	bumpable
Intraday 2	Nomination Deadline	5:00 PM	2:30 PM
	Confirmations	8:00 PM	5:00 PM

All times Central Clock Time (CCT)		Current NAESB Standards	Revised NAESB Standards
	Schedule Issued	9:00 PM	5:30 PM
	Start of Gas Flow	9:00 PM	6:00 PM
	IT Bump Rights	no bump	bumpable
Intraday 3	Nomination Deadline		7:00 PM
	Confirmations		9:30 PM
	Schedule Issued		10:00 PM
	Start of Gas Flow		10:00 PM
	IT Bump Rights		no bump

3. In conjunction with moving the Timely Nomination Cycle nomination deadline to 1:00 p.m. CCT, the modified NAESB standards adopted in Order No. 809 included revised capacity release standards that allow shippers to acquire released capacity in time to be nominated in the Timely Nomination Cycle on the same day the shipper receives the capacity release.<sup>2</sup> For example, the modified standards require that pipelines post awards for biddable capacity no later than 12:00 p.m. CCT, instead of 3:00 p.m. CCT as under the previous standards.

4. The Commission required interstate natural gas pipelines to implement the revised NAESB standards beginning on April 1, 2016.

## **II. Request for Clarification**

5. On May 28, 2015, as supplemented on June 26, 2015, the Associations filed a request to clarify the date interstate natural gas pipelines must implement the modified NAESB standards as required by Order No. 809. The Associations ask the Commission to act expeditiously on the clarifications, which are discussed below.

6. The Associations state that the April 1, 2016 implementation date does not explicitly define whether the implementation date refers to the date for which the nominations are effective or the date on which the day-ahead nominations (Timely and

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<sup>2</sup> The Commission's current capacity release program allows a firm shipper to sell (or release) its capacity to another entity when it is not using it. The pipeline contracts with, and receives payment from, the replacement shipper and then issues a credit to the releasing shipper. The results of all releases are posted by the pipeline on its Internet web site and made available through standardized, downloadable files.

Evening Nomination Cycles) are to be made. For example, if the effective date of the nominations is April 1, 2016, should the new day-ahead nomination schedules be used on March 31, 2016? The Associations believe it is essential that the entire industry implement the same scenario and propose that the Commission clarify that implementation will become effective for the Gas Day that begins at 9:00 a.m. CCT on April 1, 2016. Under that scenario, the Timely and Evening Nomination Cycle deadlines on March 31, 2016, for the April 1, 2016 Gas Day will be 1:00 p.m. CCT and 6:00 p.m. CCT, respectively, and the new nomination deadlines for the intraday cycles will become effective on April 1, 2016. The Associations also propose that, for transition purposes, the new timeline for biddable capacity releases will be utilized for all biddable releases effective on March 31, 2016 or thereafter.<sup>3</sup> The Associations include in their initial request for clarification Appendices A and B explaining how their proposal will be implemented.

7. The Associations also propose that the Commission establish default provisions for capacity release transactions with the right to recall capacity into which the parties entered prior to April 1, 2016 and that extend through April 1, 2016. In the absence of mutual agreement to the contrary, the Associations propose such transactions shall have the default rights set forth below. In their supplemental filing, the Associations explain their proposal in more detail, stating that it is not unduly speculative to presume that long-term capacity releases consummated before April 1, 2016 will contain recall provisions based on the obsolete scheduling timeline and may not function as intended after the new scheduling standards are implemented. The Associations state that, currently, releasing shippers can specify whether releases are recallable and select which cycles are subject to recall rights. The Associations recognize that capacity release transactions with recall rights may vary, and that the parties to the transactions may want to come to an agreement as to the capacity release recall rights that will be available for the Intraday 3 Nomination Cycle beginning April 1, 2016. They believe that specifying default outcomes in the absence of the parties' agreement would assist the parties to these transactions in defining the capacity release recall rights that will be available on April 1, 2016 and thereafter, and smooth the transition to the new nomination timeline.

8. Accordingly, the Associations request that for capacity release transactions with the right to recall capacity entered into prior to April 1, 2016, for periods that include April 1, 2016, and terminate thereafter, the Commission establish default rights as follows:<sup>4</sup>

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<sup>3</sup> Associations' Request for Clarification at Appendix B.

<sup>4</sup> The Associations state that for all other transactions, the capacity release recall rights will not change.

- If the transaction only specifies that recalls are permitted at the Intraday 1 Nomination Cycle, then for periods that include April 1, 2016, and thereafter, recalls only will be permitted at the Intraday 1 Nomination Cycle.
- If the transaction only specifies that recalls are permitted at the Intraday 2 Cycle, then for periods that include April 1, 2016, and thereafter, recalls will be permitted at the Intraday 2 Nomination Cycle and Intraday 3 Nomination Cycle.
- If the transaction specifies that recalls are permitted at the Intraday 1 Nomination Cycle and the Intraday 2 Nomination Cycle, then for periods that include April 1, 2016, and thereafter recalls will be permitted at the Intraday 1 Nomination Cycle, Intraday 2 Nomination Cycle and Intraday 3 Nomination Cycle.

9. The Associations state that shippers releasing capacity for periods that straddle April 1, 2016, should notify the pipeline by way of a letter in advance of that date if they do not want the default rights specified above to apply to the transaction. They state that the letter should memorialize that the default recall rights do not apply and indicate the mutual agreement of the releasing and replacement shippers.<sup>5</sup> They state that, in the absence of such a letter provided to the pipeline by a shipper in advance of April 1, 2016, recall rights will transition according to the default rights specified above as an administrative transition matter without any further action. The Associations state that the transition of recall rights for these types of capacity release transactions, whether by default or through mutual agreement, should be administrative and should not impact other attributes of the capacity release, e.g., prices or quantities, and as such, implementation of the transition of such recall rights would not require posting or allow or require re-bidding. Finally, the Associations state that the releasing shipper should have the ability to recall capacity under a transaction's existing provisions if it wishes to terminate the transaction, even if the releasing shipper and the replacement shipper are unable to reach agreement on a non-default recall transition.

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<sup>5</sup> The Associations note that, as a supplement to the letter, the releasing shipper can memorialize in the special terms and conditions that the default rights do not apply to prospective releases, consistent with the letter.

### **III. Commission Determination**

#### **A. Implementation Date**

10. As requested, the Commission finds the timing proposed by the Associations to effectuate a reasonable implementation of Order No. 809. We agree that having all pipelines follow the same schedule will provide for a smoother transition and help shippers by ensuring that they can conduct transactions on all pipelines under the same timetable.

11. We accept the schedules proposed by the Associations as described in full in Appendices A and B to their request for clarification. In general, the new day-ahead nomination timelines will apply as of March 31, 2016 for those nominations that will become effective April 1, 2016. Specifically, the Timely and Evening Nomination Cycle deadlines on March 31, 2016 for the April 1, 2016 Gas Day will be 1:00 p.m. CCT and 6:00 p.m. CCT, respectively. Otherwise, the intraday nomination timelines on March 31, 2016 will follow the existing timeline.

12. With respect to capacity releases, the new biddable release schedule will start at 9:00 a.m. CCT on March 31, 2016, for all releases with contracts to be effective on March 31, 2016, April 1, 2016, or thereafter. Non-biddable releases effective on March 31, 2016 will follow the existing posting schedule for the Intraday 1 and Intraday 2 Nomination Cycles, and will follow the new day-ahead nomination schedule for the Timely and Evening Nomination Cycles.<sup>6</sup>

#### **B. Default Capacity Release Recall Rights**

13. The Commission sees value in establishing a default interpretation of capacity release contractual recall provisions to assist parties in effectuating the transition between the two intraday and three intraday nomination schedules. While parties may vary such a default interpretation by agreement, a default may reduce the burden of negotiation on those parties satisfied with the default interpretation.

14. Such a request, however, goes beyond merely clarifying the implementation date adopted in Order No. 809 and should be subject to notice and comment to establish that the default interpretation is reasonable. In particular, the Commission seeks comment on a number of aspects of the proposal. Commenters should address the merits of establishing a default approach or propose an alternative approach. Commenters should

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<sup>6</sup> For example, a non-biddable release for the Timely Nomination Cycle on March 31, 2016 (to become effective April 1, 2016) must submit its notice by 12 a.m. CCT.

address whether the default should apply to all agreements into which the parties have entered before April 1, 2016 (as proposed by the Associations), or should only apply to releases entered into by an earlier date, such as the date of issuance of Order No. 809, which put the parties on notice that the nomination schedule would change as of April 1, 2016, and therefore permitted negotiations as to the applicability of recall conditions for releases that are still in effect on April 1, 2016 or thereafter. They also should address whether the default that should apply when the transaction specifies that recalls are permitted only at the Intraday 2 Nomination Cycle is to permit recalls at Intraday 2 and 3 (as proposed by the Associations) or only Intraday 3. Finally, commenters should address the proposal that “the releasing shipper should have the ability to recall capacity under a transaction’s existing provisions if it wishes to terminate the transaction, even if the releasing shipper and the replacement shipper are unable to reach agreement on a non-default recall transition.”<sup>7</sup> Comments should address how this provision would operate and why the general default provisions should not apply to a contract in dispute if the parties are unable to reach agreement (and have not sought Commission resolution of the dispute).

15. Initial comments will be due 20 days from the date of this order and reply comments will be due 30 days from the date of this order.

The Commission orders:

(A) The Commission grants the Associations’ requested clarification as to the implementation date of Order No. 809, as discussed in the body of this order.

(B) Initial comments on the Associations’ proposed default recall rights for capacity release transactions are due 20 days from the date of this order with reply comments due 10 days thereafter.

By the Commission.

Issued: July 31, 2015.

Kimberly D. Bose,

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<sup>7</sup> Associations’ Supplemental Filing at 3.

Secretary.

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